

JAN 26 2022

A BILL FOR AN ACT

RELATING TO EMPLOYEES OF THE DEPARTMENT OF THE ATTORNEY GENERAL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the department of
2 the attorney general employs an administrator of the Hawaii
3 criminal justice data center to supervise the Hawaii criminal
4 justice data center division and a chief special investigator to
5 supervise the investigations division of the department. These
6 positions are the only supervisory positions for the legal
7 services and public services divisions within the department
8 that are not exempt from the civil service system. The
9 supervisory positions have complex responsibilities, including
10 handling highly sensitive confidential information and require a
11 set of skills that are unique to the department.

12 Moreover, these positions, like other supervisory positions
13 within the department, are not just supervisory positions but
14 managerial positions in charge of divisions. In the department
15 of the attorney general, the supervisors are an extension of the
16 office of the attorney general and they are heavily relied upon
17 to implement the priorities of the office of the attorney
18 general. It is therefore important for the office of the

1 attorney general to be able to supervise all supervisors in a
2 consistent, uniform manner and in accordance with the priorities
3 and business needs of the department.

4 The office of the attorney general also needs the ability
5 and flexibility to direct the duties and functions of all
6 supervisors, such that the department may act in a coordinated
7 manner to meet the needs of the State as determined by the
8 office of the attorney general, in consultation with the
9 governor. At times, execution of those duties and functions is
10 to address crisis situations and requires the full confidence of
11 the office of the attorney general to develop, coordinate, and
12 promptly implement the policies, activities, and programs as
13 specified by the office of the attorney general. Given the
14 highly specialized nature and expectations of the supervisory
15 positions in the department, these managerial positions are not
16 appropriate for the civil service system.

17 Exempting these positions from civil service will ensure
18 that the attorney general has the authority to appoint the best
19 candidates for the positions and will allow the attorney general
20 to supervise these positions consistently and equally with the
21 twenty-three other employees of the department of the attorney
22 general who hold supervisory positions. The change would also

1 more accurately reflect the specialized needs of the
2 department's supervisory positions.

3 SECTION 2. Section 76-16, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The civil service to which this chapter applies shall
6 comprise all positions in the State now existing or hereafter
7 established and embrace all personal services performed for the
8 State, except the following:

9 (1) Commissioned and enlisted personnel of the Hawaii
10 National Guard as such, and positions in the Hawaii
11 National Guard that are required by state or federal
12 laws or regulations or orders of the National Guard to
13 be filled from those commissioned or enlisted
14 personnel;

15 (2) Positions filled by persons employed by contract where
16 the director of human resources development has
17 certified that the service is special or unique or is
18 essential to the public interest and that, because of
19 circumstances surrounding its fulfillment, personnel
20 to perform the service cannot be obtained through
21 normal civil service recruitment procedures. Any such
22 contract may be for any period not exceeding one year;

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- 1 (3) Positions that must be filled without delay to comply
2 with a court order or decree if the director
3 determines that recruitment through normal recruitment
4 civil service procedures would result in delay or
5 noncompliance, such as the Felix-Cayetano consent
6 decree;
- 7 (4) Positions filled by the legislature or by either house
8 or any committee thereof;
- 9 (5) Employees in the office of the governor and office of
10 the lieutenant governor, and household employees at
11 Washington Place;
- 12 (6) Positions filled by popular vote;
- 13 (7) Department heads, officers, and members of any board,
14 commission, or other state agency whose appointments
15 are made by the governor or are required by law to be
16 confirmed by the senate;
- 17 (8) Judges, referees, receivers, masters, jurors, notaries
18 public, land court examiners, court commissioners, and
19 attorneys appointed by a state court for a special
20 temporary service;
- 21 (9) One bailiff for the chief justice of the supreme court
22 who shall have the powers and duties of a court
23 officer and bailiff under section 606-14; one

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1 secretary or clerk for each justice of the supreme
2 court, each judge of the intermediate appellate court,
3 and each judge of the circuit court; one secretary for
4 the judicial council; one deputy administrative
5 director of the courts; three law clerks for the chief
6 justice of the supreme court, two law clerks for each
7 associate justice of the supreme court and each judge
8 of the intermediate appellate court, one law clerk for
9 each judge of the circuit court, two additional law
10 clerks for the civil administrative judge of the
11 circuit court of the first circuit, two additional law
12 clerks for the criminal administrative judge of the
13 circuit court of the first circuit, one additional law
14 clerk for the senior judge of the family court of the
15 first circuit, two additional law clerks for the civil
16 motions judge of the circuit court of the first
17 circuit, two additional law clerks for the criminal
18 motions judge of the circuit court of the first
19 circuit, and two law clerks for the administrative
20 judge of the district court of the first circuit; and
21 one private secretary for the administrative director
22 of the courts, the deputy administrative director of
23 the courts, each department head, each deputy or first

1 assistant, and each additional deputy, or assistant
2 deputy, or assistant defined in paragraph (16);

3 (10) First deputy and deputy attorneys general, the
4 administrative services manager of the department of
5 the attorney general, one secretary for the
6 administrative services manager, an administrator and
7 any support staff for the criminal and juvenile
8 justice resources coordination functions, the
9 administrator of the Hawaii criminal justice data
10 center, the chief special investigator, and law
11 clerks;

12 (11) (A) Teachers, principals, vice-principals, complex
13 area superintendents, deputy and assistant
14 superintendents, other certificated personnel,
15 not more than twenty noncertificated
16 administrative, professional, and technical
17 personnel not engaged in instructional work;

18 (B) Effective July 1, 2003, teaching assistants,
19 educational assistants, bilingual/bicultural
20 school-home assistants, school psychologists,
21 psychological examiners, speech pathologists,
22 athletic health care trainers, alternative school
23 work study assistants, alternative school

1 educational/supportive services specialists,
2 alternative school project coordinators, and
3 communications aides in the department of
4 education;

5 (C) The special assistant to the state librarian and
6 one secretary for the special assistant to the
7 state librarian; and

8 (D) Members of the faculty of the University of
9 Hawaii, including research workers, extension
10 agents, personnel engaged in instructional work,
11 and administrative, professional, and technical
12 personnel of the university;

13 (12) Employees engaged in special, research, or
14 demonstration projects approved by the governor;

15 (13) (A) Positions filled by inmates, patients of state
16 institutions, persons with severe physical or
17 mental disabilities participating in the work
18 experience training programs;

19 (B) Positions filled with students in accordance with
20 guidelines for established state employment
21 programs; and

22 (C) Positions that provide work experience training
23 or temporary public service employment that are

1 filled by persons entering the workforce or
2 persons transitioning into other careers under
3 programs such as the federal Workforce Investment
4 Act of 1998, as amended, or the Senior Community
5 Service Employment Program of the Employment and
6 Training Administration of the United States
7 Department of Labor, or under other similar state
8 programs;

9 (14) A custodian or guide at Iolani Palace, the Royal
10 Mausoleum, and Hulihee Palace;

11 (15) Positions filled by persons employed on a fee,
12 contract, or piecework basis, who may lawfully perform
13 their duties concurrently with their private business
14 or profession or other private employment and whose
15 duties require only a portion of their time, if it is
16 impracticable to ascertain or anticipate the portion
17 of time to be devoted to the service of the State;

18 (16) Positions of first deputies or first assistants of
19 each department head appointed under or in the manner
20 provided in section 6, article V, of the Hawaii State
21 Constitution; three additional deputies or assistants
22 either in charge of the highways, harbors, and
23 airports divisions or other functions within the

1 department of transportation as may be assigned by the
2 director of transportation, with the approval of the
3 governor; four additional deputies in the department
4 of health, each in charge of one of the following:
5 behavioral health, environmental health, hospitals,
6 and health resources administration, including other
7 functions within the department as may be assigned by
8 the director of health, with the approval of the
9 governor; an administrative assistant to the state
10 librarian; and an administrative assistant to the
11 superintendent of education;

12 (17) Positions specifically exempted from this part by any
13 other law; provided that:

14 (A) Any exemption created after July 1, 2014, shall
15 expire three years after its enactment unless
16 affirmatively extended by an act of the
17 legislature; and

18 (B) All of the positions defined by paragraph (9)
19 shall be included in the position classification
20 plan;

21 (18) Positions in the state foster grandparent program and
22 positions for temporary employment of senior citizens

- 1 in occupations in which there is a severe personnel
2 shortage or in special projects;
- 3 (19) Household employees at the official residence of the
4 president of the University of Hawaii;
- 5 (20) Employees in the department of education engaged in
6 the supervision of students during meal periods in the
7 distribution, collection, and counting of meal
8 tickets, and in the cleaning of classrooms after
9 school hours on a less than half-time basis;
- 10 (21) Employees hired under the tenant hire program of the
11 Hawaii public housing authority; provided that not
12 more than twenty-six per cent of the authority's
13 workforce in any housing project maintained or
14 operated by the authority shall be hired under the
15 tenant hire program;
- 16 (22) Positions of the federally funded expanded food and
17 nutrition program of the University of Hawaii that
18 require the hiring of nutrition program assistants who
19 live in the areas they serve;
- 20 (23) Positions filled by persons with severe disabilities
21 who are certified by the state vocational
22 rehabilitation office that they are able to perform
23 safely the duties of the positions;

- 1 (24) The sheriff;
- 2 (25) A gender and other fairness coordinator hired by the
3 judiciary;
- 4 (26) Positions in the Hawaii National Guard youth and adult
5 education programs;
- 6 (27) In the state energy office in the department of
7 business, economic development, and tourism, all
8 energy program managers, energy program specialists,
9 energy program assistants, and energy analysts;
- 10 (28) Administrative appeals hearing officers in the
11 department of human services;
- 12 (29) In the Med-QUEST division of the department of human
13 services, the division administrator, finance officer,
14 health care services branch administrator, medical
15 director, and clinical standards administrator;
- 16 (30) In the director's office of the department of human
17 services, the enterprise officer, information security
18 and privacy compliance officer, security and privacy
19 compliance engineer, and security and privacy
20 compliance analyst;
- 21 (31) The Alzheimer's disease and related dementia services
22 coordinator in the executive office on aging;

1 [+] (32) [+] In the Hawaii emergency management agency, the
2 executive officer, public information officer, civil
3 defense administrative officer, branch chiefs, and
4 emergency operations center state warning point
5 personnel; provided that, for state warning point
6 personnel, the director shall determine that
7 recruitment through normal civil service recruitment
8 procedures would result in delay or noncompliance; and

9 [+] (33) [+] The executive director and seven full-time
10 administrative positions of the school facilities
11 authority.

12 The director shall determine the applicability of this
13 section to specific positions.

14 Nothing in this section shall be deemed to affect the civil
15 service status of any incumbent as it existed on July 1, 1955."

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: *Wm. N. Oji*

BY REQUEST

S.B. NO. 3045

Report Title:

Employees of the Department of the Attorney General; Exempt

Description:

Converts the positions of the administrator of the Hawaii Criminal Justice Data Center and the chief special investigator of the Department of the Attorney General from civil service status to exempt status.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

SB. NO. 3045

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO EMPLOYEES OF THE DEPARTMENT OF THE ATTORNEY GENERAL.

PURPOSE: To convert the positions of the administrator of the Hawaii Criminal Justice Data Center and the chief special investigator of the Department of the Attorney General from civil service status to exempt status.

MEANS: Amend section 76-16, Hawaii Revised Statutes.

JUSTIFICATION: The Department of the Attorney General (Department) employs an administrator of the Hawaii Criminal Justice Data Center to supervise the Hawaii Criminal Justice Data Center and a chief special investigator to supervise the Investigations Division of the Department. These positions are the only supervisory positions for the legal services and public services divisions within the Department that are not exempt from the civil service system. The supervisory positions have complex responsibilities, including handling highly sensitive confidential information and require a set of skills that are unique to the Department.

Moreover, these positions, like other supervisory positions within the Department, are not just supervisory positions but managerial positions in charge of divisions. In the Department of the Attorney General, the supervisors are an extension of the Office of the Attorney General (OAG) and they are heavily relied upon to implement the priorities of OAG. It is therefore important for OAG to be able to supervise all supervisors in a consistent, uniform manner and in accordance with the priorities and business needs of the Department.

OAG also needs the ability and flexibility to direct the duties and functions of all supervisors, such that the Department may act in a coordinated manner to meet the needs of the State as determined by OAG, in consultation with the Governor. At times, execution of those duties and functions is to address crisis situations and requires the full confidence of OAG to develop, coordinate, and promptly implement the policies, activities, and programs as specified by OAG. Given the highly specialized nature and expectations of the supervisory positions in the Department, these managerial positions are not appropriate for the civil service system.

Exempting these positions from civil service will ensure that the Attorney General has the authority to appoint the best candidates for the positions and will allow the Attorney General to supervise these positions consistently and equally with the twenty-three other employees of the Department of the Attorney General who hold supervisory positions. The change would also more accurately reflect the specialized needs of the Department's supervisory positions.

Impact on the public: The public would benefit indirectly from the Attorney General's ability to employ the best candidates in these positions, all of which provide services to the public.

Impact on the department and other agencies: The Department would benefit from the consistency of having all of its supervisors equally accountable to the Attorney General.

GENERAL FUND: None.

OTHER FUNDS: None.

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PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.